

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Commission on Proprietary Education
(Amendment)

791 KAR 1:160. Transfer of ownership, change of location, change of name, revision to existing programs.

RELATES TO: KRS 165A.360(2), (7), (9), 165A.370(1), (2)

STATUTORY AUTHORITY: KRS 165A.340(7), 165A.360(2), (9), 165A.370(1)(b), (j), 165A.400

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.400 authorizes the commission to promulgate administrative regulations to administer the provisions of KRS 165A.310 to 165A.390. Pursuant to KRS 165A.360(9), licenses ~~[certificates of approval]~~ issued by the commission are transferable. KRS 165A.370(1)(b) and (j) provide the commission with the authority to ensure that schools have all the necessary equipment to operate. This administrative regulation governs the procedures that a school shall follow to transfer ownership, change the location, change the name of the school, or revise an existing program for twenty-five (25) percent or more, as established in 791 KAR 1:010, Section 10 ~~[201 KAR 40:020, Section 5(2)]~~.

Section 1. Transfer of Ownership. A school which transfers ownership shall: (1) File a completed, signed and dated Application to Transfer Ownership of a School, (Form PE-21), referenced by 791 KAR 1:025, for commission approval within ten (10) days following the effective date of transfer.

(2) Pay by check or money order a transfer fee as set forth in 791 KAR 1:025, Section 5; and

(3) Submit a copy of legal evidence showing the transfer of ownership agreement and evidence of purchase.

Section 2. Change of Location. (1) A school that changes location shall at least thirty (30) days prior to the change of location:

(a) File a completed, signed, and dated, Application to Change the Location of a School, (Form PE-23), referenced by 791 KAR 1:025, for commission approval; and

(b) Pay by check or money order an application fee for the change of location set forth in 791 KAR 1:025, Section 7.

(2)(a) An inspection shall be conducted by a member of the commission or its designee and submitted to the commission for approval.

(b) Schools that fail to meet minimum statutory and regulatory standards shall be provided a list of corrective measures to be completed prior to operation of the school.

Section 3. Change of Name of a School. A school which changes its name shall at least (30) days prior to the change of name:

(1) File a completed, signed, and dated, Application to Change the Name of a School, (Form PE-22), referenced by 791 KAR 1:025, for commission approval; and

(2) Pay by check or money order an application fee for a change of name as set forth in 791 KAR 1:025, Section 6.

Section 4. Revise An Existing Program. (1) A school which revises an existing program for twenty-five (25) percent or more, as established in 791 KAR 1:020, Section 5(2) shall at least thirty (30) days prior to the next commission meeting:

- (a) File a completed, signed, and dated, Application to Revise an Existing Program for 25% or More, (Form PE-13), referenced by 791 KAR 1:020, for commission approval; and
- (b) Pay by check or money order the fee as set forth in 791 KAR 1:025, Section 10.
- (2) A school which revises an existing program for less than twenty-five (25) percent shall file a completed, signed, and dated, Notification to Revise an Existing Program For Less Than 25%, (Form PE-12), referenced by 791 KAR 1:020, prior to the effective date of change.

Section 5. Expansion of School Facilities. (1) If a school expands the space of an approved location, the school shall notify the commission in writing at least ten (10) days prior to occupancy.

(2) If a school utilizes a space, other than an approved location, on an on-going basis, which is already approved for public use, the school shall notify the commission in writing.

Section 6. Conditional Approval. The Executive Director may provide conditional approval of applications until submitted to the Commission for final approval.

MISTY N. EDWARDS, Executive Director

For DAVID W. FLOYD, Chair

APPROVED BY AGENCY: August 4, 2021

FILED WITH LRC: August 4, 2021 at 11:10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2021, at 1:00 p.m. Eastern Time, at the Mayo-Underwood Building Hearing Room, 500 Mero Street, 1st Floor, Frankfort, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on October 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Misty Edwards, Executive Director, Kentucky Commission on Proprietary Education, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601-1957, phone 502-564-4185, email kcpe@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Misty Edward

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation (791 KAR 1:160) establishes the requirements of proprietary schools and the utilization of an electronic data management system.

(b) The necessity of this administrative regulation: KRS 165A.400 authorizes the commission to promulgate administrative regulations to administer the provisions of KRS 165A.310 to 165A.390.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The statute provides the commission the authority to promulgate and adopt regulations for the administration of KRS 165A Chapter 1.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation governs the procedures that a school shall follow to transfer ownership, change the location, change the name of the school, or revise an existing program for twenty-five (25) percent or more.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment simply allows the executive director to provide a conditional approval of applications until submitted to the Commission for final approval.

(b) The necessity of the amendment to this administrative regulation: The amendment will facilitate the process of automating and streamlining regulatory and licensing processes through the use of an electronic data management system. This modernization will greatly improve responsiveness, and promote collaboration with stakeholders.

(c) How the amendment conforms to the content of the authorizing statutes: The statute provides the commission the authority to promulgate and adopt regulations for the administration of KRS 165A Chapter 1.

(d) How the amendment will assist in the effective administration of the statutes: This amendment simply allows the executive director to issue a conditional approval to the applicant once minimum requirements have been satisfied.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Commission on Proprietary Education, the 189 licensed proprietary schools, and any proprietary school requiring licensure pursuant to KRS 165A.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: The entity is required to meet minimum standards pursuant to KRS 165A and 791 KAR. There are no new requirements being introduced.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is not a cost increase associated with the proposed amendment.

(c) As a result of compliance, what benefits will accrue to the entities: The entity is allowed to operate a proprietary school pursuant to KRS 165A.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no costs to the commission associated with the implementation of this amendment.

(b) On a continuing basis: There will be no costs to the commission associated with the implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The commission is funded entirely through fees paid by licensed schools.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendment to this administrative regulation will not require an increase in fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment to this administrative regulation will not require an increase in fees.

(9) TIERING: Is tiering applied? Tiering is not applied because there is no change to the fee or application structure.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Commission on Proprietary Education and proprietary schools.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 165A.340(7), 165A.360(2), (9), 165A.370(1)(b), (j), 165A.400.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amended administrative regulation will not generate any new revenue for the commission.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amended administrative regulation will not generate any new revenue for the commission.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs will remain unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no fiscal impact associated with this amendment.